

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

In the Matter of)	
)	
Modernizing the E-rate Program for)	WC Docket No. 13-184
Schools and Libraries)	

COMMENTS OF SPRINT CORPORATION

Sprint Corporation (“Sprint”), pursuant to the Public Notice released on September 24, 2014 (Report No. 3010), hereby respectfully submits its comments on the petitions for reconsideration and/or clarification of the *E-rate Modernization Order*¹ filed by Verizon, SECA, and the West Virginia Department of Education in the above-captioned proceeding. As discussed below, Sprint agrees that the Commission should clarify and reconsider the new cost-effectiveness test for wireless data plans to ensure that it properly reflects (1) the availability of Category 2 support, and (2) the Internet access functionality of wireless data plans; and to confirm that this new test is applicable only for funding requests submitted after release of the *E-rate Modernization Order*. Sprint also supports petitioners’ request that the Commission simplify the cost allocation rule as it applies to generally available bundled (device and service) packages, and to voicemail, email and telephone service components that are no longer eligible for E-rate support.

¹ *Modernizing the E-rate Program for Schools and Libraries, Report and Order and Further Notice of Proposed Rulemaking*, WC Docket No. 13-184, released July 23, 2014 (FCC 14-99).

1. Application of the Cost-Effectiveness Test for Wireless Data Plans

In the *E-rate Modernization Order* (para. 153), the Commission adopted a new requirement that E-rate applicants demonstrate that a wireless data plan or air card for a mobile device is cost-effective by proving that a wireless local area network (WLAN) “is not physically possible,” or by comparing “the costs to implement an individual data plan solution versus a wireless local area network solution.” Petitioners have requested that the Commission clarify that this comparison may include the cost of Internet access,² and explain how the cost-effectiveness test operates if an applicant “cannot receive Category 2 support because of the limitations on the availability of that support.”³

Sprint agrees that the cost and value of the Internet access capability of a wireless data plan should be reflected in the cost-effectiveness test. Students and teachers can use a wireless data plan for connectivity both within the school, and externally, to reach the Internet. In contrast, a WLAN provides connectivity only within the school. Thus, an appropriate comparison between a wireless data plan and a WLAN should reflect the value of the Internet access functionality. To exclude the value of this capability while including its cost artificially inflates the price of a wireless data plan vis-à-vis a WLAN.

Sprint also agrees that the Commission should clarify that the new cost-effectiveness test complements, but does not replace, the existing E-rate cost-effectiveness rule. The Commission has long held that applicants can consider a range of factors in addition to price to determine the cost-effectiveness of different service

² Verizon Petition, p. 4.

³ Verizon Petition, p. 5; SECA Petition, p 7; West Virginia Dept. of Education (“WVDE”) Petition, p. 2 (noting that Category 2 support is not available to applicants whose discount level is below the cut-off point).

offerings, so long as price is the primary factor used to select an eligible service. Since 1998, Section 54.511(a) of the Rules has stated that E-rate applicants:

...shall carefully consider all bids submitted and must select the most cost-effective service offering. In determining which service offering is most cost-effective, entities may consider relevant factors other than the pre-discount prices submitted by providers, but price should be the primary factor considered.

The *E-Rate Modernization Order* did not change this section of the rules, and the Commission should make clear that this rule still stands and that applicants may continue to consider “relevant factors other than...price” in selecting a cost-effective service. Specifically, as Petitioners request, it should clarify that applicants may consider the availability of E-rate funding in comparing the cost-effectiveness of a wireless data plan to a WLAN. In many cases, the school budget does not extend to deployment or extension of a WLAN robust enough to meet all of a school district’s needs, in every classroom in every school in the district. If Priority 2/Category 2 internal connections funding also is not available because demand is greater than supply or because the applicant’s discount level is below the cut-off point, the WLAN is not a realistic option. Affected schools should therefore be allowed to incorporate availability of E-rate support in their cost-effectiveness analysis and to reflect this financial reality in their choice of eligible E-rate services. Allowing applicants to consider this factor in their competitive selection process also is consistent with the Commission’s long-held principle that requests for E-rate support “should be based on the reasonable needs and resources of the applicant.”⁴

⁴ See *Schools and Libraries Universal Service Support Mechanism, Second Report and Order*, 18 FCC Rcd 9202 (2003), paras. 22-23.

Finally, the Commission should clarify that the new guidance regarding the cost-effectiveness of wireless data plans applies to funding requests submitted after the date such guidance was released (July 23, 2014). Prior to release of the *E-rate Modernization Order*, applicants would reasonably have relied upon the existing guidance, which as noted was limited to a requirement that the E-rate service be selected via competitive bid process, with price being the primary (but not the sole) factor considered.⁵ Retroactive application of the new standard to funding requests submitted prior to adoption of that standard is not only unreasonable and unfair, it also is contrary to the Commission's past practice.⁶

2. Simplifying the Cost Allocation Requirement

Petitioners have requested limited reconsideration of the cost allocation requirement, citing two circumstances in which the burden of performing the cost allocation outweighs the benefits. Verizon has requested that applicants continue to be allowed to accept free or discounted cell phones bundled with an eligible service package without cost allocation while support for voice services is phased down.⁷ In addition, Verizon and WVDE have requested that E-rate support for voice mail, components of

⁵ See, e.g., *Request for Review of the Decision of the Universal Service Administrator, Ysleta Independent School District et al.*, Order released Dec. 8, 2003, para. 47 (“Applicants must select the most cost-effective offerings, and price must be the principal factor in determining whether a particular vendor is the most cost-effective”).

⁶ The Commission has previously found that USAC should use the cost-effectiveness standard in effect at the time a competitive bid process was performed, even if a different standard was subsequently adopted. See, e.g., *Academia Discipulos de Cristo et al.*, 21 FCC Rcd 9210 (2006), para. 9 (“...we find that USAC improperly denied Petitioners’ funding requests because it erroneously required Petitioners to give more weight to price in the competitive bidding process than to any other factor. These Petitioners filed their applications and initiated their competitive bidding process before Funding Year 2004. As such, USAC should have applied the standard the Commission articulated in the *Tennessee Order* [adopted in 1999], rather than the standard from the *Ysleta Order* [adopted in 2003] that it actually applied,” internal footnotes omitted).

telephone service and email be phased down on the same schedule as for voice services generally (rather than eliminated on a flash-cut basis), thereby eliminating the need to engage in complicated and cumbersome cost allocations for these elements.⁸ Both of these petitions should be granted.

It has been a standard industry practice to provide discounted equipment such as handsets with the purchase of a wireless service contract. The Commission explicitly allowed E-rate support for such bundled packages without cost allocation for several years before reversing its policy earlier this year;⁹ an application for review and a petition for clarification of the *Revised Cost Allocation Order* remain outstanding.¹⁰ The Commission's cost allocation policy reversal has caused considerable confusion and turmoil in the market, particularly for schools that are mid-way through a multi-year bundled service contract. Moreover, as Verizon has pointed out, "any savings to the E-rate program from a cost allocation requirement for cell phones that begins in 2015 would be temporary and diminish rapidly as support for voice services is phased out."¹¹

The relief sought by Verizon will help to mitigate this market confusion and the financial hardship the revised policy has or will inflict on certain applicants. Given the number of outstanding questions surrounding implementation of the *Revised Cost*

⁷ Verizon Petition, pp. 6-7.

⁸ Verizon Petition, pp. 5-6; WVDE Petition, pp. 3-4.

⁹ See *Schools and Libraries Universal Service Support Mechanism*, 25 FCC Rcd 17324 (2010), fn. 25 (schools and libraries are "free to take advantage of" free or discounted equipment deals available to the general public with the purchase of a two-year service contract, "without cost allocation"). The Commission reversed this policy in May 2014 (*Schools and Libraries Universal Service Support Mechanism*, 29 FCC Rcd 5457 (2014) ("Revised Cost Allocation Order").

¹⁰ See Application for Review of the *Revised Cost Allocation Order* filed by CTIA on July 14, 2014, and Petition for Clarification of the *Revised Cost Allocation Order* filed by E-mpa on June 13, 2014.

¹¹ Verizon Petition, p. 6.

Allocation Order, and the cost-benefit imbalance arising from the Commission's policy reversal, Sprint supports grant of Verizon's petition in this regard.

Similar relief should be granted regarding mandatory cost allocation of voice mail, components of telephone service and email (and related surcharges). As Verizon and WVDE have demonstrated, the charges for these elements are not always easy to separately identify, and the costs of cost allocating out these charges are likely to exceed the potential benefits. To minimize the burden on applicants and USAC, the Commission should grant the instant petitions.

Respectfully submitted,

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